

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D. C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of)

OREGON-IDAHO UTILITIES, INC.)

File No. _____

Petition for Temporary Waiver of Section)
51.211(a) of the Federal Communications)
Commission's Rules Concerning Implementation)
of IntraLATA Dialing Parity)

CC Docket 96-98

NSD File No. 98-121

To: Common Carrier Bureau, Network Services Division

PETITION FOR TEMPORARY WAIVER

Oregon-Idaho Utilities, Inc. ("OIU" or "Petitioner"), by its attorneys, respectfully requests an extension of time for compliance with the terms of Section 51.211(a) of the Federal Communications Commission's rules as such terms were modified in the Commission's *Order In the Matters of Implementation of Local Competition Provisions of the Telecommunications Act of 1996 and Petition of Southwestern Bell Telephone Company, Pacific Bell, and Nevada Bell for Expedited Declaratory Ruling on Interstate IntraLATA Toll Dialing Parity or, in the Alternative, Various Other Relief*, CC Docket No. 96-98, NSD File No. 98-121, FCC 99-54 released March 23, 1999 ("Order"). In the Order, the Commission announced that local exchange carriers ("LECs") must implement their intraLATA dialing parity plans within 30 days of the state Commission's approval of any plan. For the reasons stated herein OIU requests that its obligation for compliance be deferred until September 28, 1999, when OIU plans to complete its conversion to full equal access and

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implement intraLATA dialing parity as part of that conversion. As demonstrated herein, good cause exists for this waiver^{1/} because the underlying purpose of the FCC's implementation deadline for dialing parity would be frustrated by its application in this particular case.

Background and Facts

1. Petitioner is an independent local exchange carrier which serves approximately 750 subscribers in Malheur County, Oregon and Owyhee County, Idaho. On March 19, 1999, the Commission adopted its Order, which set various implementation deadlines for all carriers to be able to provide dialing parity to their customers. At the time that the Order was released Petitioner was preparing for a simultaneous implementation of interLATA and intraLATA equal access. Due to its small size and remote location, Petitioner had not previously received a request for interLATA equal access from an interexchange carrier, and for that reason Petitioner had not converted to equal access.

2. Prior to the March 23, 1999 release of the Order, Petitioner had already submitted its dialing parity plan to the Oregon and Idaho state Commissions proposing to implement dialing parity as part of its conversion to full equal access. Petitioner's plan for conversion to full equal access includes a standard 180-day time frame for the conversion. The 180 days allows time for solicitation

^{1/} "The Commission may exercise its discretion to waive a rule where particular facts would make strict compliance inconsistent with the public interest." WAIT Radio v. FCC, 418 F.2d 1153, 1159 (D.C. Cir. 1969). Waiver of a Commission rule is appropriate where (1) the underlying purpose of the rule will not be served, or would be frustrated, by its application in a particular case, and grant of the waiver is otherwise in the public interest, or (2) unique facts or circumstances render application of the rule inequitable, unduly burdensome or otherwise contrary to the public interest, and there is no reasonable alternative. Northeast Cellular Telephone Co., L.P. v. FCC 897 F.2d 1164, 1166 (D.C. Cir. 1990).

of interested carriers, establishment of the required number of new trunks and trunk groups, two rounds of customer balloting, allocation of non-responding customers, and equal access cut over.

3. On April 1, 1999 Petitioner sent out carrier notification packages and began its 180-day conversion period with the plan to implement 2-PIC equal access on September 28, 1999. However, the Commission's Order which was released just prior to the April 1 start of the 180-day conversion period requires implementation of intraLATA dialing parity prior to Petitioner's September 28, 1999 conversion date. This is because both the Oregon and Idaho state Commissions will approve Petitioner's intraLATA dialing parity plans on or before the June 22, 1999 deadline specified in the Order, leading to an implementation requirement, from the terms of the Order, not later than 30 days following state Commission approval. Petitioner has the technological requisites for 2-PIC equal access now in place, as a result of Petitioner having installed the necessary software upgrades to its switching facilities in preparation for the planned September 28, 1999, simultaneous 2-PIC equal access conversion. Converting at an earlier date would, however, require elimination of one or more of the clearly-defined time segments within the 180-day implementation cycle, which are designed to promote clarity of information and choice for both customers and carriers. Such action would place unreasonable burdens on both customers and carriers which elect to participate in the process. In addition, such a change would certainly cause confusion among all involved, and be counterproductive to the intended result which is to promote increased competition among interexchange carriers.

Request for Waiver

4. Petitioner requests an extension of the Commission's waiver of Section 51.211(a) which

requires that intraLATA dialing parity be implemented within 30 days of the state Commission approval of a plan. Compliance with that deadline would require Petitioner to alter its conversion schedule to full equal access.

5. Grant of Petitioner's request for waiver is in the public interest because the purpose in requiring the implementation of intraLATA dialing parity, increased competition, is not served by requiring Petitioner to move up its conversion to equal access purely to meet the Commission's dialing parity implementation deadline. The expense and confusion which would occur as a result of altering the schedule currently underway does not serve to further the Commission's goal of increased competition, and would entail costs and increase administrative burdens on OIU. In this case, the public interest would not be served by requiring a LEC to comply with the established implementation schedule since it is burdensome and detrimental to the interests of carriers and customers alike. The Commission has stated numerous times that it seeks to be a proponent of the spread of telecommunications services to rural areas.^{2/} Notably, OIU does not offer its own toll services to its customers, and there is no opportunity for OIU to benefit itself by a delay in the offering of intraLATA dialing parity.

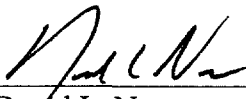
^{2/} Report and Order In the Matter of Federal-State Joint Board on Universal Service 12 FCC Rcd 8776, 8799-8806 (May 7, 1997).

Conclusion

For the reasons explained, Petitioner requests an extension of time until September 28, 1999 to comply with of the Commission's intraLATA dialing parity implementation requirement. This brief extension will allow Petitioner to maintain its current 180-day equal access conversion schedule, and promote an orderly transition to a competitive environment for customers and interexchange carriers alike. The public interest benefit in this case equals or exceeds that which the Commission has found in other instances to be sufficient for waiver. Accordingly, Petitioner requests that a waiver and extension be granted as proposed.

Respectfully submitted,

OREGON-IDAHO UTILITIES, INC.

By: 
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May 27, 1999

DECLARATION

I, Jeffrey F. Beck, hereby state and declare:

1. I am an officer of Oregon Idaho Utilities, Inc.
2. I am familiar with the facts contained in the foregoing Petition For Temporary Waiver, and I verify that those facts are true and correct to the best of my knowledge and belief, except that I do not and need not attest to those facts which are subject to official notice by the Commission.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on this 26th day of May, 1999.


Jeffrey F. Beck

CERTIFICATE OF SERVICE

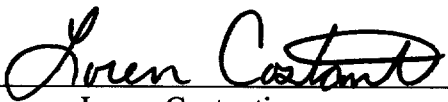
I, Loren Costantino, an employee of Lukas, Nace, Gutierrez & Sachs, Chartered, hereby certify that on this 27th day of May, 1999, that I have caused a copy of the attached "Petition for Temporary Waiver" to be hand-delivered to the persons listed below:

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